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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)

Applications of WorldCom, Inc. and)

Howard A. White, Trustee, for)

Transfers of Control of)

MCI Communications Corporation and)

Request for Special Temporary Authority)

CC Docket No. 97-211

**Petition To Deny the Application of WorldCom
or, in the Alternative, To Impose Conditions**

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Introduction and Summary

A combined WorldCom/MCI will dominate the Internet. Together the two companies will control roughly 60% of the Internet backbone market and exercise control over everyone else. The merger also will decrease from four to three the number of nationwide facilities-based long-distance providers and increase the market share of the two top providers to more than 75%. Finally, the merger could lessen residential competition in all markets, since Worldcom's Vice Chairman has stated flatly that "[o]ur strategy is not in the consumer business."¹

The Commission requires applicants to make an affirmative showing that a merger enhances competition.² Tellingly, WorldCom and MCI proffer no analysis whatsoever of the competitive effects of the merger on Internet and long-distance markets.³

¹ M. Mills, "WorldCom Would Shift MCI's Focus," Washington Post, Oct. 3, 1997 at A1.

² Merger of MCI Communications Corp. and British Telecommunications PLC, Memorandum Opinion and Order, GN Docket No. 96-245, Paragraphs 33-34 (rel. Sept. 24, 1997) ("BT/MCI Order"). Applications of NYNEX Corporation, Transferor, and Bell Atlantic Corporation, Transferee, 9 Comm. Reg. (P&F) 187, Paragraphs 37-38 (1997) ("BA-NYNEX Order").

Before finding this \$37 billion merger to be in the public interest, the Commission should impose two conditions to ensure that this merger does not lessen competition. First, WorldCom should be required to divest some of its Internet backbones in order to lessen its dominance of the Internet. WorldCom already has told analysts it would be willing to take this step. Second, the Commission should ensure that Bell Atlantic and other currently precluded long distance entrants have access on a resale basis to all network facilities and features that MCI and WorldCom currently use to service their long distance customers.

I. Access to Documents

An analysis of the actual competitive effects of the WorldCom/MCI merger will depend heavily on the internal company documents of WorldCom and MCI. The Commission routinely grants interested parties access to Hart-Scott-Rodino documents in large merger cases subject to a protective order.⁴

The Commission should request access to the documents collected by the Department of Justice pursuant to the Hart-Scott-Rodino Act and make those documents available to interested parties under protective order. A protective order such as the one that governed access by MCI to documents collected in the Bell Atlantic/NYNEX merger would fully protect MCI's and WorldCom's interests here.

³ Applications of WorldCom, Inc. and Howard A. White, Trustee for Transfers of Control of MCI Communications Corp. and Request for Temporary Special Authority, Oct. 1, 1997; Amendment to Applications of WorldCom, Inc. For Transfer of Control of MCI Communications Corporation, November 21, 1997.

⁴ See, e.g. Bell Atlantic/NYNEX Order at para. 28.

II. WorldCom/MCI's Dominance Over the Internet Backbone Market

If this merger is approved without conditions, WorldCom will become "an Internet Emperor."⁵ It will own four of the big six Internet backbones (UUNet, MCI, AOL/ANS, and CompuServe) and control well over 60% of commercial Internet traffic. As its documents likely show, WorldCom has a conscious strategy to dominate this unregulated market; WorldCom's Vice Chairman John Sidgmore recently noted that he believed "[h]aving a big network is a huge barrier to entry for competitors."⁶

This concentration comes at a time when the Internet has become critical to U.S. and world commerce. The Internet serves an estimated 56 million U.S. subscribers today, double what it served a year ago,⁷ and promises to be the leading data, voice and video network of the future.

The "backbones" carry Internet traffic across the U.S. and around the world. A backbone is comprised of high-capacity trunk lines that link key nodes and interexchange Internet traffic and exchange critical routing information.⁸ This "network of networks" relies on voluntary agreements between transportation providers -- known as "peering" -- to offer interconnection

⁵ G. Gilder, "The Fiber Baron," Wall St. J., Oct. 6, 1997 at A22. Analysts have noted that the combined WorldCom/MCI will be "the Godfather of the Internet" (J. Sadler and J. John, Robinson-Humphrey analysts, First Call (Oct. 1, 1997)); "the King of the Internet" (A. Bary, "The Trader," Barron's Online, Sept. 15, 1997)); and an "Internet giant" (J. Sandberg, "How One Company Is Quietly Buying Up the Internet," Wall St. J., Sept. 9, 1997, at B1). The Communications Workers of America noted that: "WorldCom's proposed takeover bid for MCI is the worst nightmare scenario to come along for anyone who fears a crushing concentration of anti-competitive power in long distance communications." Statement by Communications Workers of America President Morton Bahr Opposing WorldCom Takeover Bid for MCI, Oct.1, 1997.

⁶ R. Chandrasekaran, "Making UUNet Into a Very Big Deal," Washington Post, Sept. 29, 1997, at 14 (quoting John Sidgmore).

⁷ "Latest IntelliQuest Survey Reports 56 Million American Adults Access the Internet/Online Services," <http://www.intelliquest.com/about/release37.htm>; President Bill Clinton, Remarks by the President to the People of Knoxville (October 10, 1996), <http://www.pub.whitehouse.gov/white-house-publications/1996/10/1996-10-10president-and-vp-remarks-in-knoxville-tn.text> (claiming 25 million U.S. Internet users).

⁸ J. Rickard, "Internet Architecture," Boardwatch Magazine Directory of Internet Service Providers (July/Aug., 1997), at 8.

for routing and transit to each other. Until recently the Internet consisted of a number of relatively equal backbones that negotiated on more or less equal terms to pass on traffic. But the combination of UUNet with AOL's ANS backbone, the CompuServe backbone, and MCI's backbone will give WorldCom a commanding share of the total backbone traffic.

WorldCom Will Control Over Half the Internet. Pre-merger UUNet alone claimed to carry "35 percent to 40 percent of U.S. data traffic on the Net." WorldCom/UUNet has also boasted that, after its "acquisition of CompuServe and its agreement to carry America Online's traffic, about 50 percent of the U.S. dial-up traffic will be on the UUNet network."⁹ MCI independently asserted that its backbone carried over 40 percent of Internet traffic.¹⁰

One measure of industry concentration, the HHI, reveals an alarming loss of competition in the market. On average, the post-merger HHI is twice that identified in the Merger Guidelines as indicating a market which is "very concentrated."

⁹ Gerwig, "UUNet Plants Multicast Flag," Internet Week, Sept. 29, 1997.

¹⁰ Bert C. Roberts, Chairman & CEO, MCI, remarks before National Press Club luncheon, Oct. 29, 1996; see also G. Gilder, "Telecosm Feasting on the Giant Peach," Forbes, Aug. 26, 1996, at 84 (MCI carries 40 percent over Internet traffic). UUNet has boasted of being bigger than MCI. See B. Meeks, "Justice Probes WorldCom-MCI Deal," MSNBC, Oct. 15, 1997, <http://www.msnbc.com/news/114314.asp>.

**Estimates of Market Concentration in the Internet Backbone
Following a WorldCom/MCI Merger**

Estimate By/ Source	POST-MERGER MARKET SHARE	MINIMUM HHI
<u>Boardwatch Magazine Survey</u> Jon Healey, "MCI Bid Puts Net at Stake," San Jose Mercury News (10/2/97)	51%	2601
<u>Information Week</u> Mary Thyfault & Beth Davis, "Users Assess WorldCom's \$30 Billion Bid for MCI," Information Week (10/6/97)	49%	2401
<u>Industry experts</u> George Mannes, "Wall St. WorldCom Beater, Internet Worries Linked to Prices," New York Daily News (10/3/97)	"up to" 80%	6400
<u>Decision Resources, Inc.</u> "WorldCom Tops Its \$20 Billion, 20 Month Spending Spree With a \$30 Billion Bid for MCI," PR Newswire (10/3/97)	"at least" 60%	3600
<u>Inter@ctive Week</u> Wilson & R. Barrett, "Proposed Colossus Craves International Reach," Inter@ctive Week (10/6/97)	"more than" 50%	2500
<u>Wall Street Journal</u> Thomas E. Weber and Rebecca Wuick, "Would WorldCom-MCI Deal Lift Tolls on Net?" Wall Street Journal (10/2/97)	"more than" 60%	3600
<u>Arlen Communications</u> "Rival's Bid for MCI - Nearly \$30 Billion," Sacramento Bee (10/2/97)	"over" 70%	4900

***Mean of calculated HHIs, as opposed to HHI calculated from mean of market share estimates.**

By every current market share estimate, combining the Internet backbones of UUNet, AOL, CompuServe, and MCI will leave WorldCom in a commanding position.

A review of publicly available routing information verifies these market share estimates, showing that a merged WorldCom/MCI would own 58% of customer “routes” on the Internet. See Appendix A (describing methodology). These “routes” are the information that internet backbone providers give to other providers on how to reach customers on the Internet; in order to reach WorldCom’s customers, for example, WorldCom has to first announce to other backbone providers how to reach them. These routes are announced and exchanged at interconnection points.

Market Share Estimates Understate WorldCom/MCI’s Dominance. WorldCom and MCI argue that market share estimates are poor measures of dominance in the Internet, because of the alleged ease with which new competitors could enter the backbone market and ISPs could switch backbones. But the opposite is true. First, backbone capacity right now is at a premium, and speeds across the Internet are dropping. Second, it is difficult to switch from one backbone provider to another, and such switching difficulties deter investment by new entrants in additional backbone capacity. New capacity is useless unless customers can switch to it. Finally, Internet dominance feeds on itself in this unregulated network market, and once a company achieves critical mass that mass continues to grow. This is what WorldCom’s Vice Chairman, John Sigdmore means when he tells newspaper reporters “[h]aving a big network is a huge barrier to entry for competitors.”¹¹ The new WorldCom would be in the position of the AT&T of the early 20th century, which became unstoppable once AT&T became so large that other companies had to interconnect with AT&T or go bankrupt.

¹¹ R. Chandrasekaran, “Making UUNet Into a Very Big Deal,” Washington Post, Sept. 29, 1997, at 14 (quoting John Sidgmore).

The Internet Backbones are Congested. The most pressing problem in the Internet today is the limited capacity of the backbone networks. Because of burgeoning traffic, average speeds for downloading across backbone networks are only in the range of 40 kilobits per second (kbps), a decrease of 10 kbps from just a few months before.¹² This is far less, for example, than the 128 kbps speed of the ISDN services Bell Atlantic has made available to almost 100% of its customers and much less than speeds of the xDSL, cable-modem, and other technology now being deployed.

Rather than racing to add critically needed backbone capacity, WorldCom's combination of four backbones into one enormous backbone has the potential to further degrade the quality of the Internet backbones. WorldCom will have to work hard to make its merger synergy numbers; as one analyst noted, WorldCom "just found an additional \$5 billion" of synergies when it decided to raise its offer for MCI.¹³ In any event WorldCom's shaky balance sheet combined with its Internet dominance will not create incentives for more investment in the Internet. WorldCom's documents will show whether the merger will result in reduced investment in backbone capacity.

More fundamentally, increasing concentration generally leads to a reduction in overall output (and increased price), particularly where as here the increased concentration results from one relatively dominant player becoming much more dominant.¹⁴

¹² These measurements are done jointly by Boardwatch magazine and Keynote Systems. [Http://www.keynote.com/measures/backbones/backbones.html](http://www.keynote.com/measures/backbones/backbones.html). Press Release, "First Independent Ranking of Internet Backbones Rates Compuserve Tops in Performance (June 25, 1997) at <http://www.keynote.com/company/announcements/pr062597.html>.

¹³ Benjamin Stein, "Cheap Milkshakes? MCI's Shareholders Should Hang Up on WorldCom's Offer," Barron's, December 22, 1997.

¹⁴ See, e.g., H. Hovenkamp, Federal Antitrust Policy § 12.3A (1994).

Pricing Obstacles to Switching. WorldCom/MCI argue that consumers can switch to other backbones, and that other backbones can add capacity and customers, in response to anticompetitive actions. But there will be little incentive in the form of price or quality of service to switch backbones once WorldCom and MCI merge, since most Internet traffic still will travel through WorldCom. The combined company will control the terms and conditions on which everyone's traffic traverses the Internet.

In 1997, WorldCom instituted a "peering" policy that already has raised the price of the Internet to everybody and that demonstrates how this the merger will bring further price increases. WorldCom will use its larger post-merger size to raise price first to rival (smaller) backbones, and then to ISPs connected to its backbones. Here is how.

When the Internet backbone industry was small and fragmented, backbones and ISPs traditionally operated on "peering" arrangements, under which they accepted and handed off traffic and customer routing information to each other at no charge. In May 1997, however, WorldCom broke ranks and began charging smaller ISPs and backbone networks not only for Internet transit, but simply for access to its customer routes. Backbones and ISPs who refuse to pay the fees for customer routes cannot reach WorldCom's customers. Only backbones that can "route traffic on a bilateral and equitable basis" to and from WorldCom are given reciprocal interconnection treatment.¹⁵ Several of the smaller backbones complained about WorldCom's new peering policy,¹⁶ but capitulated because they had no choice. MCI, BBN, and Sprint then began charging smaller backbones too.¹⁷

¹⁵ R. Barrett, "UUNet Sets Official Peering Requirements," Interactive Week Online, May 13, 1997, at <http://www.zdnet.com/zdnn/content/inwo/0513/inwo0001.html>.

¹⁶ NetRail, a backbone headquartered in Atlanta, called WorldCom's decision to stop peering "a restriction of free trade." J. Poole, "Midrange ISP Prices Climb; UUNet, Sprint End Free Traffic Services", InfoWorld, May 5, 1997,

WorldCom's logic for the new peering policy is that its backbone network had grown bigger than most others. John Sidgmore noted that, "a few years ago, all ISPs were generally the same size and used each other's infrastructures to a more or less equal extent. Today that situation no longer exists, and consequently there are many cases where peering is not appropriate."¹⁸

With the merger, WorldCom will have no peers. WorldCom's peering policy – the standards by which it judges whom it will charge for interconnection, and with whom it will exchange traffic for free – provides it the proper lever to exploit its new network scope. If WorldCom enforces its current interconnection standards after the merger, even AT&T and Sprint can expect WorldCom to stop freely peering with its networks. And at that point, customers would have little incentive to switch to a competing backbone provider, since price ultimately will be regulated by WorldCom through the prices it charges for peering.

Many neutral observers believe that the WorldCom/MCI merger will result in higher prices and potentially lower quality for customers. As the *Wall Street Journal* reports:

For the first time, a single company is within reach of dominating the innards of the Internet. If WorldCom Inc. succeeds in its surprise bid to acquire MCI Communications Corp., the combined company would control more than 60% of all U.S. traffic on the global computer network. That kind of market dominance would give WorldCom an unprecedented level of clout and, potentially, pricing power over the Internet.¹⁹

at 10. CAIS Internet stated, "we disagree with UUNet's new peering position and believe it may be anti-competitive." CAIS Press Release, "CAIS Internet Responds to New UUNet Peering Policy," PR Newswire, May 1. See also "UUNet Technologies To Cut Off Free Connections To Its Internet Backbone," Business Wire, Apr. 25, 1997 ("The move is seen as a power play designed to force smaller providers to pay for access – or possibly go out of business.").

¹⁷ B. Riggs, "Free Ride Is Over for Small ISPs," LAN Times, May 26, 1997, at 19.

¹⁸ R. Barrett, "UUNet Sets Official Peering Requirements," Interactive Week Online, May 13, 1997.

¹⁹ Thomas E. Weber and Rebecca Quick, "Would WorldCom - MCI Deal Lift Tolls on Net?" Wall Street Journal (2 October, 1997), B1.

Market analysts predict as well that the WorldCom/MCI combination will both raise the price of Internet access and the quality of service: “WorldCom’s hostile takeover bid for MCI . . . signals a drastic change in the balance of power between the users and the providers of Internet service, as well as between smaller ISPs and the newly dominant backbone provider that WorldCom/MCI represents. The change could be very bad for data network customers (i.e., anyone who sends E-mail).”²⁰

Technical Obstacles to Switching. WorldCom and MCI no doubt will argue that ISPs can as a technical matter easily switch to other backbones if they are confronted with price increases or quality degradation. There is, however, no general portability of address space.

ISPs currently obtain IP address space in one of two ways: (1) by applying to own large blocks of routable, portable address space; or (2) by leasing smaller blocks of address space from an upstream provider. Of the 4000 ISPs currently operating in the U.S. today, only 300 qualify to own their own address space. The remaining 3700 ISPs (over 90% of all ISPs) must lease address space directly from their upstream provider.

These ISPs who rent rather than own address space face almost insurmountable obstacles to switching backbones. To switch, they must be assigned new IP addresses and engage in the burdensome and time-consuming task of renumbering their networks and systems – and the networks and systems of all their customers.²¹ One Internet scholar observes that forced renumbering “can be used as a means to lock clients into a particular provider structure.”²² The combinations of hardware, operating systems, network software and other applications in which IP addresses are hard-coded “provide a vast, if not unlimited number of [renumbering]

²⁰ Mitch Ratcliffe, “WorldCom Takeover Bid a WorldBomb?” ZDNet, www.zdnet.com/zdnn (3 October, 1997).

²¹ H. Berkowitz, “Router Renumbering Guide,” [ftp://rs.internic.net/rfc/rfc2050.txt](http://rs.internic.net/rfc/rfc2050.txt).

possibilities.”²³ The renumbering process may well take a year or more to accomplish and renumbering large sections of individual networks alone may take three to six months.²⁴

Control of Key Infrastructure. The backbone providers connect their networks at 11 major “network access points” (NAPs).²⁵ WorldCom owns five NAPs, including the two dominant NAPs, MAE East and MAE West. These unregulated bottleneck points give WorldCom crucial leverage over other Internet backbone providers.

According to one analyst, WorldCom’s MAE East in Washington, D.C. handles more than 60 percent of all worldwide traffic and an estimated 85 percent of all intra-European traffic;²⁶ another estimates that MAE East handles roughly 40 percent of U.S. Internet traffic.²⁷ As owner of five of the NAPs, WorldCom has the ability to influence the terms by which traffic is shared not only between its network and other networks, but among other networks as well. An ISP cut off from the WorldCom NAPs is in dire straits; the other NAPs are overwhelmed with traffic and congested.²⁸

Ownership of these facilities gives WorldCom enormous influence in the marketplace. No other backbone can claim this sort of control; only one other backbone, Sprint, is in direct

²² Bill Manning, “Renumbering-What, Why and How,” <ftp://fp.isi.edu/pub/bill/pier/renumbering>.

²³ A partial list of items requiring renumbering includes (1) hosts and servers (for some ISPs and customers may include every PC); (2) configuration files; (3) name systems; (4) licensed servers; (5) firewalls; (6) Internet registries; (7) bridges; (8) access control lists; (9) application servers; (10) router configurations; (11) gateways; (12) end user systems; (13) network management stations; (14) client configurations (Unix, Windows 95, Windows NT and Mac OS); (15) remote items; and (16) online and offline documentation. Phillip Nesser, “IP Addresses in Applications,” <ftp://itf.org/internet-drafts/draft-ietf-pier-applications-oo.txt>; Bill Manning, “Renumbering - What, Why and How,” <ftp://fp.isi.edu/pub/bill/pier/renumbering>.

²⁴ *Id.*

²⁵ J. Rickard, “Internet Architecture,” Boardwatch Magazine Directory of Internet Service Providers, July/Aug. 1997, at 8-9.

²⁶ J. Dvorak, “Breaking Up the Internet Logjam,” PC Magazine, Apr. 8, 1997, at 87.

²⁷ P. Merrion, “What a Tangled Web Users Weave,” Crain’s Chicago Business, Dec. 9, 1996.

²⁸ See Section II; see also R. Gareiss, “Is the Internet in Trouble?” Data Communications, Sept. 21, 1997, at 36.

control of even a single NAP, the New Jersey “official” NAP which handles less traffic than either MAE East or MAE West.

WorldCom also controls much of international traffic.²⁹ Given the more advanced state of the U.S. Internet industry, much of the world’s traffic is routed through the United States. As noted above, WorldCom’s MAE East NAP routes the bulk of all intra-European traffic.

Expanding Dominance. WorldCom, with the combined UUNet, AOL, CompuServe, and MCI backbones, will be even more dominant than conventional measures of market share suggest.

The Internet’s value depends in large part on the total number of people and the quantity and quality of the content connected to it, due to “network externalities.”³⁰ According to “Metcalfe’s Law,” which has been endorsed by former FCC Chairman Hundt, the value of a network increases as the square of the number of nodes connected to the network.³¹ Assuming conservatively that the combined WorldCom networks provide service to 50 percent of Internet nodes, then 75 percent or more of Internet traffic will cross one of WorldCom’s networks at some point in an Internet transaction or session.³² At 60 percent of nodes, 84 percent or more of Internet traffic will have to move at some point through WorldCom’s facilities. By contrast, if

²⁹ WorldCom operates extensive European and Asian backbone networks of its own. WorldCom’s pan-European Internet backbone links hubs in ten European cities, with high-capacity links directly to Asia and North America. WorldCom boasts that it “can deliver more pure Internet connectivity to Europe and Asia than any other provider. UUNet, UUNet High Performance Network, <http://www.uu.net/lang.en/network/europe.shtml> (1997) (downloaded Oct. 8, 1997).

³⁰ See, e.g., J. M. Stevens, “Antitrust Law and Open Access to the Internet,” 38 Vill. L. Rev. 571 (1993).

³¹ See B. Metcalfe, “Metcalfe’s Law: A Network Becomes More Valuable as It Reaches More Users,” Infoworld, Oct. 2, 1995; G. Gilder, “Metcalfe’s Law and Legacy,” *Forbes* ASAP, Sept. 13, 1993; Reed Hundt, Chairman, FCC, speech before Wall Street Journal Business And Technology Conference, Washington, D.C., September 18, 1996 (Metcalfe’s Law is one of the two “best foundation[s] for understanding the Internet.”).

³² Assuming that, over average, each node generates an equal amount of traffic, a 50 percent share of nodes means that 50 percent of traffic will originate on one of WorldCom’s networks. Likewise, half of the 50 percent of traffic that originated elsewhere – 25 percent of total traffic – will terminate with WorldCom, for a total percentage carried by WorldCom of 75 percent.

we assume that the next largest backbone, say BBN, connects only 20 percent of nodes, then the percentage of Internet traffic carried exclusively over its own network is 4 percent. WorldCom's network is thus vastly more valuable to the other providers than their networks are to WorldCom.

The Internet is too important a medium of mass communication to be monopolized by one provider. The Commission has the right idea not to regulate the Internet, but regulation will be inevitable once WorldCom attains market dominance.

III. Long Distance

The merger of WorldCom and MCI concentrates further the already oligopolistic long distance market, and raises additional barriers to entry by competitors.

WorldCom and MCI together will be the second largest long distance company in the United States. Currently AT&T has 47.9% of the toll revenues collected by long distance companies, MCI 20%, Sprint 9.7% and WorldCom 5.5%. With the merger, WorldCom/MCI will have over one-quarter of all long distance revenues. More importantly, seventy-five percent of total revenues will go to just two companies, AT&T and WorldCom/MCI. Their share of presubscribed lines will be over 80%.³³

WorldCom/MCI will be one of only three major facilities-based long distance carriers.³⁴ The loss through the merger of a fourth facilities-based provider, and the creation of a provider that has more than one-quarter of the market, further diminishes the already limited ability of other companies to serve the long distance market. Merrill Lynch upgraded WorldCom's stock

³³ Federal Communications Commission, Long Distance Market Shares, Second Quarter 1997 at Table 3 (Oct. 1997).

³⁴ Qwest will not complete its network until second quarter 1999 at the earliest. Today that network only stretches west of Indianapolis on select point-to-point city routes. Even when completed, it will only reach selected cities, and it is unclear whether it will have the sophisticated call management features necessary to compete in the large business market. Press Release, "Qwest Lights Network from St. Louis to Indianapolis," Business Wire, December 3, 1997. A map of the network shows its limited reach. <http://www.qwest.net/networkframe.html>

after announcement of the merger in part because of “the reduced level of competition of US long distance markets”³⁵

As the attached affidavit from Steve AuBuchon (Appendix B) discusses, the current long distance incumbents have refused Bell Atlantic access to the features and facilities necessary to provide service to large and medium-sized business customers.³⁶ The carriers’ willingness to deal has varied inversely with their retail market share. AT&T has essentially refused to negotiate any long distance resale agreement with Bell Atlantic. MCI was willing to negotiate an agreement but only if Bell Atlantic did not use resold MCI capacity to compete against it. Bell Atlantic has entered into a resale agreement with Sprint, but Sprint has not given Bell Atlantic access to network management, virtual private network and enhanced 800 features such as automatic call distribution that are necessary to serve the lucrative Fortune 500 market. Because these sophisticated call management systems require years to develop and only the Big Three have them, the actions of the Big Three essentially have foreclosed Bell Atlantic’s competitive entry into the most lucrative part of the long distance market for some time to come.

The merger will make the resale problems worse. WorldCom apparently was in the process of beginning to develop these high-end business features in competition with the Big Three incumbents. See AuBuchon Affidavit at ¶4.

Furthermore, the creation of a larger carrier with greater than 25% market share leaves only one facilities-based carrier (Sprint) with any incentive to even negotiate resale with Bell Atlantic. The more customers a carrier has, the more risk it has of cannibalizing those customers through resale. This reality is amply illustrated by Attachment C, which is a resale proposal that

³⁵ D. Reingold, Merrill Lynch Global Securities Research, Oct. 1, 1997, 2:50 p.m.

MCI gave to Bell Atlantic in 1995. MCI proposed a “maximizer” discount to Bell Atlantic as “an incentive to market to non-MCI customers.” Under this anticompetitive proposal, Bell Atlantic would receive price discounts if it minimized the number of MCI customers it won. A combined MCI/WorldCom with a greater than 25% market share would have even greater exposure to resellers, and thus no incentive to resell whatsoever.

WorldCom argues that the Commission should not worry about this increased concentration in long distance and the loss of a major facilities-based carrier because the RBOCs will enter long distance soon. But how and when the RBOCs will build long distance facilities is still uncertain, and MCI is doing everything in its power to delay RBOC entry.

Bell Atlantic has filed an application in New York State to be permitted to provide long distance and should receive approval in the first half of 1998. Bell Atlantic also intends to file soon other long distance applications. But, depending on the pace of Commission approval of applications, it may be some time before Bell Atlantic can offer ubiquitous long distance service to its customers.

Furthermore, Bell Atlantic and other local carriers are likely to enter the long distance market initially only as resellers. The Commission’s decision to require RBOCs to build long-distance facilities in a separate subsidiary delays by a year or two the day when RBOCs will have their own networks up and running. And even after then, the inability to get resale access to high-end business features that take years to develop will circumscribe Bell Atlantic’s ability to compete in the business market, where the real profits are.

³⁶Unlike incumbent local exchange carriers, long-distance carriers do not have a statutory obligation to resell services at a wholesale discount.

IV. Local

WorldCom has argued that the merger of MCI Metro, Brooks Fiber, and MFS would create a fearsome local competitor to incumbent local telephone companies.³⁷

Even without a WorldCom/MCI merger, local competition in the Bell Atlantic territories is accelerating quickly. Bell Atlantic has entered into 38 interconnection agreements for New York State. As of November, competitors have resold 129,379 lines in New York State; the number of interconnection trunks reached 118,238.³⁸ Furthermore, based on publicly available sources, Bell Atlantic has estimated that competitive local carriers can reach 98% of businesses in Manhattan and nearly 70% in the New York metropolitan area. By October 1997, in New York State alone competitors have installed 2720 miles of fiber and 85 switches.³⁹ As Bell Atlantic will show in future filings, competition in other states has burgeoned as well.

Bell Atlantic simply has no good way to predict whether the merger of MFS, MCI Metro, and Brooks Fiber into one will increase, decrease, or have no effect on the accelerating rate of competition in the local marketplace. The Commission previously opined in the Bell Atlantic merger that only MCI, Sprint and AT&T were significant potential competitors to RBOCs in mass local markets (other than perhaps contiguous RBOCs). It is unclear under such an analysis whether the merger of two competitors found less significant six months ago (WorldCom/MFS

³⁷ "A WorldCom-MCI combination will accelerate competition -- especially in local markets -- by creating a company with the capital, marketing abilities and state-of-the-art network to compete more effectively against the incumbent network carriers, domestically and abroad." WorldCom Press Release, "DOJ Asks WorldCom for Additional Information re: MCI," October 31, 1997. See generally, Applications of WorldCom, Inc. And Howard A. White, Trustee for Transfers of Control of MCI Communications Corp. And Request for Temporary Special Authority, Oct. 1, 1997.

³⁸ Initial Brief of Bell Atlantic - New York, Case No. 97-C-0271, Proceeding before the State of New York Public Service Commission, Supplemental Affidavit of Jacob J. Goldberg (Jan. 5, 1998).

³⁹ Supplemental Petition of Bell Atlantic - New York for Approval of Its Statement of Generally Available Terms and Conditions Pursuant to Section 252 of the Telecommunications Act of 1996; and Draft Filing of Petition for InterLATA Entry Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region,

and Brooks Fiber) with a significant competitor (MCI) would be considered good, bad, or indifferent from the Commission's perspective.

Should the Commission find that the WorldCom/MCI merger further will accelerate competition in the local market, however, it should accelerate the long-distance applications of Bell Atlantic accordingly. The already intense amount of competition in New York, for example, would only accelerate, if WorldCom and MCI are correct.

Conclusion

The Commission has imposed conditions on other mergers under the public interest standard, on the theory that these mergers would not enhance competition and would in the absence of conditions lessen it.⁴⁰

With 60% Internet market share and half the NAPs under its control, divestiture of one or more of the combined WorldCom's backbones is a necessary remedy for the increased concentration this merger will bring. WorldCom and MCI apparently already have conceded that such divestiture is a feasible remedy.⁴¹

InterLATA Services in the State of New York, Case No. 97-C-0271, Volume 1, Affidavit of Jacob Goldberg (Nov. 6, 1997).

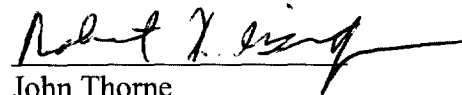
⁴⁰ BT/MCI Order at Section VI; Bell Atlantic/NYNEX Order at para. 178.

⁴¹ Credit Suisse First Boston noted that "the remedy [for increased backbone concentration] is easy. The company has already indicated that if this becomes a stumbling block, it is willing to offer the remedy of selling pieces of the backbone." Frank Governali, "WCOM: Strong Buy Reflection of Merger," December 8, 1997.

The increased concentration and loss of a facilities-based carrier that might have offered competitive resale to RBOCs in the long distance market also will substantially lessen competition. Here the necessary remedy is also a condition requiring WorldCom to resell all of its long distance network management features and services to Bell Atlantic on a timely and reasonable basis.

Sincerely,

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January 5, 1998

APPENDIX A

Appendix A

Routing Analysis Methodology

Step	Notes
Download Autonomous System Database from InterNIC	<p>Autonomous System Numbers (ASNs) are identifiers used to identify “autonomous” networks – networks under the management of a single entity, e.g., a corporation, university, or an ISP/carrier. An entity may own several ASNs, either for several independent networks or as a technical convenience in managing a single large network.</p> <p>ASNs are issued by the InterNIC (which role is currently contracted to Network Solutions, Inc., of Reston, VA). The InterNIC is the issuing authority and registrar of Autonomous Systems Numbers.</p> <p>ASNs, in addition to their administrative function, play an integral role in the exchange and management of traffic routing information between networks; the routing information “advertised” by a network is tagged with that network’s ASN. Thus, at the core of the internet (the large exchange points) the route to a destination is unambiguously labeled with the ASN of the destination’s ISP/NSP. The current version of this file is available for <i>ftp</i> download at: ftp://rs.internic.net/netinfo/asn.txt</p>
Identify Autonomous System Numbers Associated with Carriers of Interest	<p>This is a simple search of the ASN database to retrieve all ASNs registered to each carrier/ISP. The result is a simple list of ISPs/carriers and their associated ASNs. For example Bell Atlantic operates an ASN, “AS4390”. As a second example, Sprint has registered more than 100 ASNs. Most of these are used internally however, and only a few are used to advertise routes externally. The product of this process is a list of ASNs registered to each carrier.</p>
Pull Routing Summary (Number of Routes) for each ASN for each Carrier	<p>This step uses a publicly available, neutral (not operated by or for any ISP/Carrier) service to determine the number of route announcements associated with a given ASN. The service is available on the World Wide Web; the <i>URL</i> is:</p> <p>http://www.employees.org/~thates/checkas.html.</p> <p>The service operates by taking a full internet routing table from the MAE West exchange point and associating each routing announcement with its “Autonomous System of Origin”, the ASN which originates, or “owns” the route. This step produces a table summarizing the number of routes “owned” by each carrier</p>
Summarize Route Statistics	<p>Format and plot the route summary data. All of the plots produced for this analysis are drawn solely from the process outlined above; no other data were introduced, and none were extrapolated or interpolated.</p>

APPENDIX B

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Applications of WorldCom, Inc. and)	
Howard A. White, Trustee, for)	CC Docket No. 97-211
Transfers of Control of)	
MCI Communications Corporation and)	
Request for Special Temporary Authority)	

Statement of Steven AuBuchon

1. I am Steven AuBuchon, Director of Business Product Marketing. I have held this position for fourteen months. Prior to this, I worked for AT&T at eight years and MCI for six years, also in business marketing positions.
2. I am in charge of business marketing for Bell Atlantic Long Distance. Bell Atlantic Long Distance provides limited long distance service in three out-of-region states, including North Carolina, Texas and Michigan. We now are preparing to offer service to our major in-region customers, once we receive permission from regulators.
3. Bell Atlantic Long Distance needs to offer high-end voice capabilities in order to attract and retain its business customers. These capabilities include Virtual Private Network (VPN) and Enhanced Toll Free (E800) products that provide for sophisticated call management. Business customers demand a full range of services and one-stop shopping, so lack of VPN and E800 products will seriously harm Bell Atlantic's attempts to compete with the incumbents.
4. The incumbent carriers own the high-end business market of Fortune 1000 companies. Only AT&T, Sprint and MCI have the full range of features necessary to compete in this market,

so competition in this segment of the market is not robust. WorldCom also was beginning to develop these high-end features, or so I gathered from headhunter calls for WorldCom concerning opportunities to develop and manage VPN and E800 projects.

5. Bell Atlantic Long Distance has had difficulty getting these facilities-based long distance carriers to supply these services to us at wholesale. AT&T and MCI have shown no serious interest in negotiating with us. After spending several months negotiating a non-disclosure agreement with AT&T for packet-switched services, for example, we decided our energies were better focused elsewhere. Furthermore, AT&T and MCI never indicated any willingness to wholesale the high-end business voice features.

6. Only Sprint will deal with us, but even Sprint has not given us the features we need to be competitive, particularly in the area of business services. Sprint has refused to give us any sales, network design, and customer network management tools. It announced its "official" intent to offer wholesale VPN and E800 products in December 1996, but so far we have not received them. Meanwhile Sprint makes many of these products available to its retail customers.

7. Not surprisingly, Bell Atlantic has seen very little wholesale price competition. Sprint has proposed that we buy some enhanced 800 and VPN services at Sprint's *retail* prices. The other carriers will not even sell to us and so have no disciplining effect on Sprint.

8. I can only surmise the reason why no one will sell to us. Before I came to Bell Atlantic, MCI sent a long distance wholesale pricing proposal to Bell Atlantic that would have required Bell Atlantic to not compete against MCI at the retail level in order to take advantage of favorable wholesale prices. The great fear of companies with large retail market share is cannibalizing high-margin retail sales with low-margin wholesale sales. And the greater retail